

**DISTRICT COURT OF THE UNITED STATES
MIDDLE DISTRICT OF PENNSYLVANIA**

<div style="text-align: center;">Michael Miller Petitioner, v. COUNTY OF LANCASTER, ET. AL., Respondents.</div>	<div style="text-align: center;">CIVIL ACTION NO: 1:24-CV- 00014-SES Magistrate Judge Susan E. Schwab</div>
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**BRIEF IN SUPPORT OF MOTION FOR ENTRY OF DEFAULT
JUDGMENT**

Michael Miller [“Miller”] briefs the Court in support of his motion to enter a default judgment against Office of Open Records [“OOR”], and in support states:

I. Procedural History

On February 1, 2024, OOR failed to plead or otherwise defend pursuant to Rule 12(a)(1)(A)(i) and Rule 12(a)(4). Consequently, on February 5, 2024, the clerk entered a default for OOR pursuant to Rule 55(a). On February 6, 2024, Miller provided OOR notice of his intent to apply for default judgment pursuant to Rule 55(b)(2). On February 9, 2024, OOR filed an unsworn motion and brief requesting set aside of the default. On February 9, 2024, OOR filed an untimely motion to dismiss under Rule

12(b)(6).¹

II. Statement

The court should enter a default judgment against OOR for the following reasons.

First, pursuant to Rule 55(c), OOR shows no meritorious defense. It asserts, in conclusory terms, that it has a meritorious defense, but does not set forth with specificity the grounds for it. (Doc. 15, p.7)²

Second, OOR does not demonstrate excusable neglect; moreover, the record supports an inference of OOR's culpability. (Doc 15, p.2)³.

Third, Miller is prejudiced by additional submission deadlines, OOR's frivolous filings, and the 'last look' at filings unduly awarded to OOR and the co-defendant.

Fourth, since defaulting under Rule 12(a), OOR has filed three

¹ Rule 12(a)(4) required a motion under Rule 12(b) to be filed by February 1, 2024.

² See generally, *Harrison v. BREW VINO, LLC*, Dist. Court, MD Pennsylvania 2021. Civ. No. 1:20-cv-00666.

³ On February 1, 2024, OOR filed an unsworn motion to extend the time to file a responsive pleading (Doc. 10), which asserted a reason for counsel's failure to file a responsive pleading, but it did not assert excusable neglect on the part of OOR. Moreover, this motion was deemed withdrawn pursuant to L.R. 7.5 because OOR did not file a supporting brief or any evidence to verify its claims. Remarkably, OOR posited this unsworn and unsupported motion as the grounds for its motion to set aside the default.

motions; all three are unsupported by rule, fact, or evidence. OOR's lack of due diligence in defending this suit supports a default judgment.

Additionally, as State censorship is interminable and causing accruing and irreparable injury to Miller, his rights and time are prejudiced. He demands award of costs in this motion and its defense.

Respectfully Submitted:

/s/ Michael Miller

Michael Miller

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Date: February 17, 2024

CERTIFICATE OF SERVICE

I hereby certify that caused to be served by e-filing a true and correct copy of the foregoing document to the following:

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Dated: February 17, 2023